

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5919 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

1. Whether Reporters of Local Papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SHARIFKHAN SIKRULLAKHAN PATHAN

Versus

COMMISSIONER OF POLICE

Appearance:

MRS TANVEER M SHAIKH for Petitioner

Mr Kamal Trivedi, AGP, for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 06/11/96

ORAL JUDGEMENT

It is now well settled that on some stray and casual act, a detainee cannot be branded as "dangerous person" within the meaning of section 2 (c) of the

Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as "the PASA Act'). Reference may be made to a decision of the Apex Court in the case of Mustakmiya Jabbarmiya Shaikh v. M M Mehta, Commissioner of Police, Ahmedabad, reported in 1995 (3) SCC 237. With the assistance of the learned Advocates, I have perused the materials available on record. There is nothing on record to show on the basis of which the petitioner can be branded as "dangerous person" under section 2(c) of the PASA Act. In view of this, in my opinion, the order of detention is illegal and not sustainable.

2. In the result, this Special Civil Application is allowed. The order of detention dated 13.6.1996 is quashed and set aside. The petitioner shall be released forthwith if not required in any other case.

Rule made absolute accordingly.

/mohd/